

360.0000 DISASTER RELIEF

See Base Year Value Transfer—(c) Disaster Relief

360.0001 Appeal. Revenue and Taxation Code section 51 presents taxpayers seeking a reduction in the assessed value of disaster-damaged property with the option of choosing the specific remedy provided in subdivision (c) (disaster relief under Revenue and Taxation Code section 170) or the general remedy in subdivision (a)(2) thereof (Proposition 8 claim). The existence or nonexistence of a disaster relief ordinance does not prevent a property owner from seeking a reduction in value through the means of an assessment appeal. C 11/14/96.

360.0001.005 Appeal. An assessment appeals board has jurisdiction to hear and decide an application filed by a property owner appealing the assessor's denial of a claim for the transfer of a base year value for real property damaged or destroyed by disaster under Revenue and Taxation Code section 69. An application may be filed during the regular filing period for the year in which the new base year value is established for the replacement property or in any of the three succeeding years. C 10/20/2004.

360.0002 Appraisal Unit. The separate appraisal unit rule for damaged property caused by disaster found in Property Tax Rule 461(d) applies only until the property is restored following the damage as of which time Property Tax Rule 461(e) applies. C 4/13/95.

360.0004 Assessment. "Repaired," as used in Revenue and Taxation Code section 170(g), means to put back into a sound or healthy state and, when applied to land as distinguished from structures, may merely encompass measures which simply prevent further damage when there is no practical means of doing more. Thus, the construction of a rock wall to prevent further erosion of previously damaged ocean front properties could constitute "full repair" for purposes of section 170(g), in which event taxable land values reduced as the result of the prior erosion would be returned to their respective adjusted base year values. C 4/26/88.

360.0010 Calculation of Taxes During Reconstruction. In each year of reconstruction, the amount of the initial reduction in base year value should be multiplied by an estimated percentage of restoration to determine the amount of taxable value, and an inflation factor should be applied to all interim values enrolled for years subsequent to the year of last enrollment prior to the calamity.

When a calamity occurs prior to the lien date, Revenue and Taxation Code section 170(e) directs the assessor to prorate the tax liability of the property in its undamaged condition on the basis of the fraction of the year prior to the month that the calamity occurs. The tax liability in the damaged condition is prorated in proportion to the fraction of the fiscal year that is remaining including the month of the calamity. There is no provision in this case for excluding the portion of the fiscal year remaining after the property is restored.

When a calamity occurs after the lien date, a similar proration is made for the current fiscal year. In addition, if the property is completely restored in the next fiscal year, a proration is made based upon the relationship of the portion of the fiscal year prior to and including the month of rehabilitation and the remainder of the fiscal year. LTA 1/26/82 (No. 82/12).

360.0015 Discovery of Calamity. There is no limitation within Revenue and Taxation Code section 170(d) of how the Assessor determines a property has suffered damage caused by calamity, and there is no legal basis for not mailing applications for reassessment to

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calamity victims where knowledge of the calamities was obtained from such persons. C 6/29/84.

360.0016 Documented Vessels. The provisions of Revenue and Taxation Code section 170 do not provide authority for considering a salmon drought a disaster entitling owners of commercial fishing vessels to assessment relief thereunder. Section 170 contemplates assessment relief because of damage to property caused by a major misfortune or calamity, not economic loss unrelated to physical damage or destruction.

If vessels are used for other than activities enumerated in Revenue and Taxation Code section 227, the special assessment treatment of that section is inapplicable, regardless of the reason for change in use. C 11/16/92.

360.0019 Fault. As used in Revenue and Taxation Code section 170 subdivision (a), pertaining to property damaged or destroyed without the assessee's or taxpayer's fault, the term "fault" encompasses acts or omissions involving some degree of willfulness and foreseeability. At a minimum, "fault" means "willful negligence," but not "ordinary negligence." The distinction between ordinary and willful negligence can be illustrated by the example of a house fire caused by a person unknowingly emptying burning cigarette refuse into a waste-basket containing flammable material (ordinary negligence) or caused by a person consciously deciding to smoke in close proximity to an open container of gasoline (willful negligence).

Defining "fault" as "willful negligence" is consistent with the objective of section 170 and is also consistent with judicial construction of federal statutory provisions relating to the analogous federal income tax casualty loss deduction. OAG 5/14/75 (No. CV 74/257); C 4/25/96; LTA 9/11/96 (No. 96/59).

360.0021 Fruit Trees Growing Crops. Growing crops cannot qualify for calamity reassessment because they are not taxable. However, fruit trees damaged by wind and rain storms may qualify if the damage exceeds \$5,000. The mere possibility of a lesser crop next year probably does not fall within the definition of physical damage to the property. C 3/1/78.

360.0025 Helicopter. A helicopter completely destroyed as the result of a crash caused by mechanical failure qualifies for reassessment under Revenue and Taxation Code section 170(a)(2) as property damaged by calamity. C 3/26/82.

360.0026 Homeowners' Exemption. Temporary absence from a dwelling for repairs made necessary by a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption, provided the owner demonstrates that he or she returned to the dwelling when possible to do so. When a dwelling has been totally destroyed, however, the exemption is not applicable until the structure has been replaced and is occupied as a dwelling, except as provided in subdivisions (d), (e), and (f) of Revenue and Taxation Code section 218. There is no federal or state law that exempts privately-owned dwellings in the course of construction from property taxation. C 3/20/92; LTA 11/24/2004 (No. 2004/069).

360.0030 Misfortune or Calamity. For purposes of applying Revenue and Taxation Code section 51(c), which provides for disaster relief pursuant to Revenue and Taxation Code section 170, "misfortune or calamity" requires a sudden, distinct occurrence of damage or destruction. Similarly, damage or destruction resulting from a "misfortune or calamity" within the meaning of Revenue and Taxation Code section 70(c) requires causation from a sudden event. C 4/24/2000.

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[360.0034](#) **Restricted Access.** The temporary fencing by a county of an area including homes which were in close proximity to but not physically damaged by a recent landslide did not restrict the access to such property for purposes of Revenue and Taxation Code section 170(a) where the residents of such homes were permitted to enter the fenced area and continue to occupy their homes. C 5/25/95.

[360.0040](#) **State Assesseees.** Revenue and Taxation Code section 170 is not applicable to state assesseees. Section 170 does not reference the Board, Board-assessment statutes contain no reference to section 170, and the Board concluded on June 14, 1978, that the provisions of article XIII A of the California Constitution, which section 170 implements, are not applicable to state assesseees. C 11/9/82.

[360.0045](#) **Stolen Property.** Revenue and Taxation Code section 170 is not applicable to property which has been stolen but not recovered. For reassessment of property to occur, section 170 requires that the property be physically damaged or destroyed by a calamity. OAG 5/14/75 (No. CV 74/257); C 5/6/76; C 12/3/84.

[360.0050](#) **Taxpayer Options.** Revenue and Taxation Code sections 51 and 170 provide property owners alternative means for obtaining disaster relief. The sections are not mutually exclusive. If, for some reason, a property is not eligible for assessment relief under section 170, it may nonetheless qualify for assessment reduction under section 51 on the basis that its current market value is less than its factored base year value. C 11/14/96.